

PATENT COOPERATION TREATY

From the
IN/ NATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/GB2005/000778

International filing date (day/month/year)
02.03.2005

Priority date (day/month/year)
03.03.2004

International Patent Classification (IPC) or both national classification and IPC
G01B3/10

Applicant
FISCO TOOLS LIMITED

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/GB2005/000778

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/GB2005/000778

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-15
	No: Claims	
Inventive step (IS)	Yes: Claims	2, 4-7, 9-15
	No: Claims	1, 3, 8
Industrial applicability (IA)	Yes: Claims	1-15
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)

International application No.

PCT/GB2005/000778

Reference is made to the following documents:

- D1: US-A-4 023 277
- D2: US-A-6 053 447
- D3: US-A-4 200 983
- D4: GB 682 714 A
- D5: US-B1-6 550 155

Re Item V:

1. Technical Field: Tape measures
2. Prior Art

D5 discloses a tape measure with automatic blade extension. The tape measures of D3 and D4 have apertures in the case allowing access to the spooled blade. D1 and D2 are very relevant for inventive step, see in detail in items V/3 and V/4.

3. Novelty (Article 33(2) PCT)

The tape measure of D1 (Figs. 1-5; col. 1, l. 54-col. 2, l. 37) has a case 10, a measuring blade 32 in said case, a windup spring 92, and a piece 36 at the free end of the blade. Equally, the tape measure of D2 (Figs. 1-6; col. 2, l. 40-col. 4, l. 51) has a case, a measuring blade 51 in said case, a spring 53, and a piece 69 at the free end of the blade. In D1 and D2 the blade is extendable from the case via an opening, and the case has a further aperture to allow direct access to the spooled blade. The opening and the aperture is shown as feature 14 in D1 (Fig. 1). The same feature is given in D2 by the space 85 between post 25 and distal end 91 of brake element 79. (Fig. 5). It is remarked that claim 1 does not exclude that the "opening" is the "aperture". Moreover, the apertures of D1 and D2 allow "direct access to the spooled blade". This vague definition (it is not defined that access by a thumb is possible)

includes the case that a small tool may be used to contact the spooled blade which is clearly possible, see figures in **D1** and **D2**.

The subject matter of claim 1 differs from the tape measure of **D1** and **D2** in that the blade is concave. **The subject matter of independent claim 1 and the dependent claims 2-15 is thus new.**

4. Inventive Step (Article 33(3) PCT)

- 4.1 The subject matter of **independent claim 1** is not based on an inventive step: The use of a concave measuring blade to enable stand-out from the case is an absolutely usual feature (respective documents could be provided) and thus obvious to a skilled person. It is also referred in this context to page 1, lines 7-9 of the description of the present application ("Known tape measures...").
- 4.2 The particular features of **claims 3 and 8** do not contribute to an inventive activity, either: In **D1** the aperture is located in the edge of the case. Moreover, any "means for driving the disc or spool" are also absolutely usual in the field of tape measures. Only as an example it is referred to **D5**. To provide such drive means is thus also obvious to a skilled person. A common technical effect with the concave measuring blade is not seen, either.
- 4.3 **The subject matter of claims 2, 4-7, and 9-15 is based on an inventive step:**

Claim 2: Starting from **D1** or **D2** there is no real indication for a skilled person seen to provide two apertures in the casing to allow access to the spooled blade.

Claims 4-7: There is no indication seen, either, to select the dimensions as specified for the aperture or apertures in claims 3 and 5.

Claims 9-15: Although spool drives in tape measures are per se known there is no indication to provide exactly the particular design as specified in claim 9 or 10.

5. Industrial Applicability (Article 33(4) PCT)

The subject matter of the claims 1-15 is industrially applicable, eg. as a tool for measuring distances (for workers like carpenters etc.).

Re Item VII:

1. The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).
2. Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D1 and D2 is not mentioned in the description, nor are these documents identified therein.

Re Item VIII (Article 6 PCT):

1. In **claim 2** it is not clearly defined that the apertures are those defined in claim 1 (to allow direct access to the spooled blade).
2. In **claim 5** a definition of the "length" in the given context (as eg. included in claim 4) is missing.
3. In **claim 8** there is no anticipating basis for "the at least one of the discs or the spool".
4. The embodiment described on **page 13, lines 14-16**, does not fall within the scope of the claims (the aperture defined in claim 1 cannot be simply omitted). This inconsistency between the claims and the description leads to doubt concerning the matter for which protection is sought, thereby rendering the claims unclear.